



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 18, 1991

Mr. T. John Ward
Brown Maroney & Oaks Hartline
1300 Wortham Tower
2727 Allen Parkway
Houston, Texas 77019

OR91-509

Dear Mr. Ward:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13647.

The Gulf Coast Waste Disposal Authority (the authority), which you represent, has received a request for information relating to the McGinnes Industrial Maintenance Corporation (the corporation) waste disposal site. Specifically, the request seeks information relating to wastes of any type, including liquid wastes, sludges, and solid wastes sent to the corporation facility for disposal over the course of a specific time period. In addition, the request seeks copies of all contracts and agreements between the authority and the corporation relating to the disposal of the authority's wastes at the corporation's facility. You claim that the requested information is excepted from required public disclosure by section 3(a)(3) of the Open Records Act.

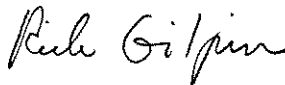
We have considered the exception you claim. Previous open records decisions issued by this office resolve your request. Open Records Decision No. 555 (1990) held that a section 3(a)(3) exception is applicable only when litigation is pending or may be reasonably anticipated and only if the requested information relates to that litigation. Section 3(a)(3) forces parties to a lawsuit to obtain relevant information through the normal process of discovery. Open Records Decision No. 551 (1990).

You advise us that the authority is currently party to litigation in Cause No. 91-

000316 in the 270th Judicial District Court of Harris County, Texas, styled *Joe Nelson vs. Champion International Corporation, et al.* We thus conclude that litigation is pending. Having examined the documents sent to us for review, we further conclude that, unless previously disclosed through the discovery process or by court order, the requested information relates to that litigation and thus may be excepted from required public disclosure by section 3(a)(3) of the Open Records Act. *Id.* Please note that this ruling applies only for the duration of the litigation and only for the information at issue here.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-509.

Yours very truly,



Rick Gilpin
Assistant Attorney General
Opinion Committee

RG/GK/lcd

Ref.: ID#s 13647, 13825

cc: Ms. Lisa B. Gossett
Attorney for Galveston Bay Foundation
Blackburn & Carter
3131 Eastside, Suite 450
Houston, Texas 77098